C.S.1001/

23

**IN THE HIGH COURT OF JUDICATURE AT BILASPUR**

**CHHATTISGARH**

**W.P. NO. 1957 /2005**

**PETITIONER** : Harilal Jagat, S/o.Full Chand Gada
Aged about 26 years, R/o.Village
Mainpur Kala, Tahsil-Bindra
Nawagarh, Dist. Raipur (C.G.)

**VERSUS**

**RESPONDENTS** : 1. State of Chhattisgarh
Through Secretory
Department of Revenue
D.K.S. Bhawan Mantralaya
Raipur (C.G.)

2. Chairman (Revenue)
Board Chhattisgarh,
Circuit Court Raipur (C.G.)

3. Sub-Divisional Officer (R)
Gariyaband, Dist. Raipur (C.G.)

4. Additional Tahsildar Mainpur
District Raipur (C.G.)

5. Baijnath, S/o. Ghanshyam Gada
Aged about 18 years, R/o.Village
Mainpurkala, Tahsil Bindra Nawagarh
District Raipur (C.G.)

6. Rohit Kmar, S/o. Ram Singh Gada
Aged about 21 years, R/o.Village
Mainpurkala, Tahsil Bindra Nawagarh
District Raipur (C.G.)

P.R. No. 1914/05
Presented by Shri C.R. Sahu
dated 28/04/05

26/4/05

RECEIVED-COPY
28.4.05

7. Chandan Singh, S/o. Pakloo Gada
Aged about 18 years, R/o.Village
Mainpurkala, Tahsil Bindra Nawagarh
District Raipur (C.G.)

8. Pareshwar, S/o. Bodhan Gada
Aged about 21 years, R/o.Village
Mainpurkala, Tahsil Bindra Nawagarh
District Raipur (C.G.)

**WRIT PETITION UNDER ARTICLE 226/227 OF CONSTITUTION OF INDIA**

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

**मामला क्रमांक** W.P.No. 1957/2005 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

| आदेश का दिनांक तथा आदेश क्रमांक | हस्ताक्षर सहित आदेश | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
|---|---|---|

**30/09/2005**

Shri C.R. Sahu, learned counsel for the petitioner.

Shri Arun Sao, Govt. Advocate for the State/respondents No.1, 3 & 4 on advance copy.

Heard.

The petitioner namely Harilal Jagat, a resident of village Mainpur Kala, Tehsil Bindra, Nawagarh District Raipur (C.G.) has challenged the legality and validity of the impugned order dated 14/12/2004 passed in Appeal Case No.279/A-56/2000-2001 passed by the Board of Revenue Chhattisgarh, Bilaspur, Circuit Court, Raipur.

By the impugned order, the Board has directed for making fresh process of appointment to the post of Kotwar by issuing fresh notification for the same by the concerned Tehsildar. The Board has further directed that the provisions of Section 230 of the Chhattisgarh Land Revenue Code, 1959 would be followed and the rules framed thereunder specifically contained in Rule 2&4 would be followed by the appointing authority in the process of appointment.

The case of petitioner is that the petitioner was one of the candidates for appointment to the post of Kotwar of village/Sub Tehsil Mainpur, Tehsil Bindra, Nawagarh, District Raipur (C.G). The Additonal Tehsildar, Mainpur vide his order dated 14/8/2000 (Annexure P-2) appointed the petitioner as Kotwar of the said village under the provisions of Section 230 of the aforesaid Code. The appointment of petitioner was given vide a Revenue Case No.5-

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

**मामला क्रमांक** W.P.No. 1957/2005 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

| आदेश का दिनांक तथा आदेश क्रमांक | हस्ताक्षर सहित आदेश -2- | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
|---|---|---|

A/56 Year 1999/2000. Against the aforesaid order dated 14/8/2000 passed by the Tehsildar, one Baijnath filed an appeal before the concerned Sub Divisional Officer and the Sub Divisional Officer after hearing the parties passed his order dated 27/12/2000 allowing the appeal setting aside the order passed by the Tehsildar and remanded back the matter to Tehsildar. Against the aforesaid order passed by Sub Divisional Officer, a Second Appeal was filed by the petitioner before the Board of Revenue and ultimately the Board passed the impugned order dated 14/12/2004 in which all the orders passed by the Court below were set aside and the matter was remanded back to the Court of Tehsildar for making fresh appointment under the aforesaid directions.

Learned counsel for the petitioner submits that the orders passed by Board of Revenue and also by Sub Divisional Officer are not in accordance with law. He further submits that for the post of Kotwar in village, the Gram Panchayat forwarded an application of a person who was below 18 years; therefore, Tehsildar had not accepted the recommendation of the Gram Panchayat and had ultimatlely appointed the petitioner as the Kotwar of the village. He submits that the appointment of petitioner was not to be set aside and the Sub Divisional Officer as well as the Board committed an error of law in setting aside the same.

I have heard learned counsel for the parties at length and have perused the records of the Writ Petition.

Sd/-
Sunil Kumar Sinha
Judge

SP/FS/2005 - 20,000